Clauses 10 to 35, the First Schedule and the Second Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

DR. ABRAR AHMED : Sir, I move : "That the Bill be passed."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : We shall now take up the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 1993.

THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES) AMENDMENT BILL, 1993

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN) : Sir, I beg to move :

"That the Bill further to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982, as passed by the Lok Sabha, be taken into consideration."

Sir, Article 158(3) of the Constitution provides that the Governors shall be entitled to such emoluments, allowances and privileges as may be determined by law and until a provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule to the Constitution. Accordingly, Parliament enacted a law, namely, the Governors (Emoluments, Allowances and Privileges) Act, 1982, to lay down the allowances and privileges of the Governors. The said Act and the rules framed under this Act, namely, the Governors (Allowances) Rules, 1987 came into effect from the 1st April, 1987. However, section 3 of the said Act, which specifies the emoluments was brought into force with effect from 1st April, 1986 by an amendment of this section and the emoluments payable to Governors were raised to Rs. 11,000 per mensem. The emoluments are payable subject to the deductions to be made as required under the proviso to the section.

Proviso (a) of section 3 provides that if a Governor, at the time of his appointment is in receipt of a pension (other than disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Government or under the Government of a State of any of its predecessor Governments, his emoluments shall be reduced.

(i) by the amount of that pension : and

(ii) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such service the commuted value thereof, by the amount of that portion of the pension ; and

(iii) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equipment of that gratuity.

The pension equivalent of retirement gratuity has been made non-deductible with effect from 1-6-1988 by an order of the Ministry of Personnel, Public Grievances and Pension dated 3rd June, 1988. The persons retiring from the Government, therefore, get a liberalised treatment on re-employment. Therefore, it would be appropriate if a similar benefit is given to Governors with effect from 1st June, 1988. I request the hon. House to accept the legislative proposal before it.

The question was proposed.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : This is a very small amendment. Shri M.A. Baby.

SHRI M.A. BABY (Kerala) : This is a very small amendment but the role of Governors in the national political life is not such a small thing. It is a highly controversial matter. Therefore, with your kind permission, I would like to take this

opportunity to very briefly make some of my observations with regard to this vexed issue which has far-reaching ramifications even to the issues related to Centre-State relationship, Sir, if we read the discussions in the Constituent Assembly when the possible role that would be played by the Governors was discussed, solemn assurances were given by the leaders of the national movement who were then participating in the debate in the Constituent Assembly that at no point of time, the Governors would be conducting themselves in a manner which would be prejudicial to the lofty democratic norms. It was also assured, with sincerity, I hope, by those who had given that assurance in the Constituent Assembly, that eminent citizens if indisputable integrity and stature would be chosen to this august constitutional office so that apart from the general guidance that is being given by the Constitution, the very fact that they themselves are chosen with the consideration that they are of great integrity, they would conduct their office keeping the democratic norms in strict observance. Sir, but I am constrained to state such sincere and solemn assurances have been violated not once but many times. Perhaps, the first most violent violation of the democratic norms and the spirit of the Constitution was carried out with regard to my own State, Kerala, in the year 1959 when the first democratically elected Communist Government, while enjoying majority within the state Legislative Assembly. was dismissed on flimsy grounds through the office of Governor. Sir, I need not have to narrate the gruerome experiences since then and had this august office has been used and abused to sustain certain narrow interests of the ruling party at the Centre.

Sir, very many suggestions have been made in the Sarkaria Commission report itself on this issue. In fact, it runs into 24 pages. The Sarkaria Commission which had a comprehensive study of all issues related to the role of Governors .even referred to the fact that with the vicissitudes of Indian political developments and situation, with the emergence of a politican scenerio where the ruling party at the Centre and the ruling parties in different States used to be different at many times, an entirely different situation had emerged before us which was, perhaps, not so concretely visualised even by the architects of the Indian Constitution. Now, Sir, the Governors, by virtue of constitutional sanctity and protection being given to them, on one hand, enjoy all the amenities and on the other, they enjoy the immunities also. Day-in and day-out, I say this with great restraint when we discuss this most sensitive issue,—for our august House should not be reduced to a forum for levelling serious charges in spite of my great constraint and great consideration to the implication of discussing this sensitive issue, I cannot but be oblivious even to the reports with factual proof and back-up appearing in the newspapers on how a Governor's office has been used for various activities which are not within the jurisdiction or which do not fall within the responsibilities that a Governor is expected to discrarge. I do not want to go into the details of the controversy raised by the Governor of Tripura. I do not want to go into the details due to obvious reasons, but, Sir, the question before us is, by taking into cognisance this kind of developments whether we are going to enhance the prestige and constitutional sanctity of the office of Governor or ... (*Interruptions*) ...

SHRI BALBIR SINGH (Punjab) : Sir, I am on a point of order. The hon. Member should confine himself to the proposed amendment. The role of Governors is not being discussed here.

SHRI MOHD. KHALEELUR RAHMAN (Andhra Pradesh) : Why not ?

SHRI BALBIR SINGH : This is not the issue. This is not the issue. ... (*Interruptions*) ... Let the Chair answer my point of order.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : As far as possible, hon. Member, ... *Interruptions*) ...

SHRI SUKOMAL SEN (West Gengal) : Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : No, no; let me deal with his point of order first; then I will go to the other point of order.... (*Interruptions*) ... Now we are on a simple subject. "The emoluments of Governors". I request the hon. Member to confine himself, as far as possible, to the Bill.

SHRI G. SWAMINATHAN (Tamil Nadu): I am on a point of order, Sir. We are talking of the emoluments of Governors. When we talk of the emoluments, then the role of Governors also comes. Only for discharging the role of a Governor, he gets emoluments; and to give emoluments and not to talk about the role seems to very funny.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : No, no ; I told the hon. Member to confine himself to the subject.

SHRI G. SWAMINATHAN : When we give an amount to somebody, what are his duties and responsibilities ... (*Interruptinos* ... One minute, Sir. When we pay somebody, then we also speak about the duties and responsibilities of that person. The duties and responsibilities mean the role of a Governor. If you say, you say anybody-; don't talk about the other things, it does not have any meaning.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : No, no ; Governors enjoy immunities. Therefore, I am saying this. ...

SHRI G. SWAMINATHAN : We are not talking about an individual Governor. We are talking about the role of Governors. I think, at least that should be permitted; otherwise, what will we talk ? There is nothing to talk about. We have been allotted an hour's time. ... (*Interruptions*) ... Sir, we have been allotted 60 minutes' time. What do we talk ? If we are going to talk only about the emoluments, then we can pass it without discussion. ... (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Swaminathan, I am dealing with it. ... (*Interruptions*) ...

SHRI S. K. T. RAMCHANDRAN (Tamil Nadu) : Sir, this should not be taken as a chance for discussing anything we like. We should confine ourselves to the subject. ... (*Interruptions*) ... I am addressing the Chair, (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Ramchandran, kindly take you seat. I have already said, I have already ruled. ... (*Interruptions*) ...

SHRI G. SWAMINATHAN : We are talking about the owerall role of Governors. It will be good for the Government and it will be good for others to know what we are talking about. (*Interruptions*) ...

SHRI S. K. T. RAMCHANDRAN : Here the point. ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Ramchandran, you kindly take your seat. (*Interruptions*) ...

SHRI S. K. T. RAMCHANDRAN : Here the point is some increase in emoluments. That is all (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : I have already told ... (*Interruptions*) ...

SHRI SUKOMAL SEN : Sir, the Parliament is gracious enough to grant the emoluments or perquisites. But at the same time the Parliament has a right to discuss the role and functioning of the Governors. We will not increase their emoluments for nothing. We are doing it for a purpose. Then we will have to see whether that purpose will be served or whether they are going to do disservice to the country. (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : We cannot make any comments on the persons who are not here to defend themselves. (*Interruptions*) ...

SHRI SATYA PRAKASH MALAVIA : Mr. Baby has not named any Governor. (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : I have already ruled that as far as possible try to avoid ... (*Interruptions*) ...

SHRI G. SWAMINATHAN : We are talking about the role of Governors. We are not taking about ... (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Baby, you can continue. (*Interruptions*) ... Mr. Baby, you can continue. (*Interruptions*) ...

SHRI ASHIS SEN (West Bengal) : Mr. Vice-Chairman, Sir, Mr. Baby is making a very relevant reference ... (*Interruption*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Baby need not require any support. Mr. Baby, you can continue.

SHRI M. A. BABY : Sir, I would have very strictly confined to the provisions of this Bill had the Governors confined themselves to their constitutional respinsibilities. We generally never discuss the functioning of the Governors here. It is only when we get a rare opportunity, with restraint and with great responsibility ... (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Now your time is going to be over. (*Interruptions*) ... Now your allotted time is going to be over.

SHRI M. A. BABY : Sir, I am concluding. My only request, through you, to the hon. Home Minister, who is present here, and the able assistant to the hon. Minister, who is also present here, is, through their good offices, to prevail upon the Governors to ensure that high standards, which have generally been maintained, are being maintained. These are only a fesy exceptions. We should generally congratulate the Governors for the way in which they have been functioning. While making that observation, I would like to register my apprehension and dissatisfaction over the aberrations that have been happening in a few cases. In this context, I would like to make a request that first of all there should be a comprehensive discussion on the part of the Central Government to explore the possibilities to give effect to the recommendations made by the Sarkaria Commission not only with regard to the appointment of Governors and the conduct of the Governors but with regard to many issues relating to Central State relations and so on. It would go a long way in correcting certain shortcomings and mistakes that exist in interpreting and implementing the recommendations. Secondly, I would like to make a concrete suggestion. At least on a few occasions some of the Governors are outstepping their jurisdiction in view of their possible entry into greener pastures in the political environment. Therefore, I would like to suggest that before we make the proposals to the eminent people whether they are prepared to accept the offer of being appointed as Governors, a suggestion should also go along go with that that after the completion of their full term they should not have any ambition to contest the elections to State legislatures or to either Houses of Parliament and they should not maintain any ambition to get any political appointment. This would, to a great extent, check the conduct of Governnors in scheming for something else once they are relieved of their responsibility as Governors. It is also very unfortunate that Governors are just thrown out whenever there is any political change. Even for removing an ordinary clerk or sepoy certain norms are to be followed. But unfortunately this august constitutional office does not have any such protection. Therefore, when we discuss about emoluments and other amenities, I think there should be some job guarantee for the Governors and after having guaranteed their job, they should not have a greater ambition for going in for other political opportunities. With these observations I conclude .

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश) : माननीय उप-सभाध्यक्ष जी, यह जो संशोधन विधेयक है , इसका तो मैं समर्थन करता हूं, लेकिन जिस तरीके से राज्यपालों की नियुक्ति की जाती है या राज्यपालों को जिस तरह से पदच्युत किया जाता है या जिस प्रकार का कुछ

राज्यपालों का आचरण है, उसके संबंध में मैं जरूर चर्चा करना चाहूंगा।

महोदया, जब संविधान निर्मात्री सभा में राज्यपाल के विषय पर चर्चा हो रही थी तो उस समय दो तरह के विचार चल रहे थे, एक तो यह कि जो राज्यपाल हों उनको निर्वाचित होना चाहिए और दूसरा यह था कि राज्यपाल की नियुक्ति केन्द्र सरकार द्वारा की जानी चाहिए। काफी विचार-विमर्श के बाद यह राय हुई कि चूंकि हर प्रदेश में मुख्यमंत्री होंगे और मुख्यमंत्री सीधे-सीधे जनता के प्रति जिम्मेदार होंगे इसलिए यही उचित होगा कि राज्य पाल की नियुक्ति केन्द्र सरकार के द्वारा की जाए। अब जिस तरीके से राज्यपाल यहां पर कार्य कर रहे हैं, कुछ राज्यपाल कार्य करते रहे हैं, यह भी विवाद का विषय बना कि राज्यपाल केन्द्र के एजेण्ट हैं या राज्यपाल स्वयं में एक स्वतंत्र संस्था हैं। अभी श्री बेबी ने जिक्र किया वर्ष 1958-1959 का, कि केरल के राज्यपाल ने जो कुछ उस समय किया, उस समय दूसरे राज्यपाल भी केरल में थे, जिन्होंने, जब यहां इस देश में कांग्रेस पार्टी के नेता का चुनाव दिल्ली में हो रहा था, उसमें हिस्सा लिया था और उसमें इंदिरा गांधी नेता बने या न बने उसमें उन्होंने प्रचार का काम किया था। इस पर उनकी आलोचना हुई थी और उनको जाना पड़ा। ठीक इसी प्रकार से अभी हाल ही में चुनाव आयोग ने राज्यपाल के विषय में एक आदेश पारित किया और उसमें यह भी चर्चा का विषय बना कि वह राज्यपाल, जब तक चुनाव होता रहा, टिकट का बंटवारा होता रहा, हिमाचल प्रदेश की राजधानी को छोड़कर, दिल्ली या मध्य प्रदेश में, सतना में रहे। यह बात भी समाचार पत्रों से प्रकाश में आई और शायद नियम भी यही है कि राष्ट्रपति का कोई आदेश भी है कि किसी भी राज्यपाल को अपना प्रदेश छोड़ने से पहले राष्ट्रपति की अनुमति लेनी चाहिए। ऐसा शायद कुछ राज्यपाल नहीं करते हैं।

महोदय, मैं यही निवेदन करना चाहूंगा कि राज्यपाल का जो पद है वह बहुत ही गरिमामय पद है और एक संवैधानिक इनका दायित्व होता है, संवैधानिक उनका पद है। इसलिए जब सरकारिया कमीशन की नियुक्ति हुई तो सरकारिया कमीशन ने भी इस संबंध में काफी चर्चा की। उन्होंने कुछ यह भी चर्चा की कि किस प्रकार के व्यक्तियों को राज्यपाल बनाना चाहिए और किस प्रकार के व्यक्तियों की नियुक्ति राज्यपाल के पद पर नहीं होनी चाहिए। विशेषकर उन्होंने इस बात की चर्चा की कि जो लोग या जो महानुभाव सक्रिय राजनीति में हैं उनकी नियुक्ति राज्यपाल के पद पर नहीं होनी चाहिए। सरकारिया कमीशन की संस्तुतियां सरकार के पास कई वर्षों पूर्व आ गई हैं, उसके संबंध में सरकार ने क्या निर्णय लिया है? मैं चाहूंगा कि गृह मंत्री जी, जो राज्यपाल के संबंध में संस्तुतियां सरकारिया कमीशन की हैं, उस पर प्रकाश डालने की व्यवस्था करें। गृह मंत्री जी, जो इंटरस्टेट कौंसिल के सदस्य भी हैं और उसमें भी शायद इस विषय में विचार विमर्श होता है, जानकारी देंगे।

दूसरा, मेरा यह निवेदन है कि सरकारिया कमीशन का यह भी कहना था कि किसी भी राज्य में राज्यपाल की नियुक्ति करने के पहले कम से कम वहां के मुख्य मंत्री से परामर्श लेना चाहिए क्योंकि दोनों में आपस में यदि सौहार्द बना रहेगा तो राज्य का शासन भी ठीक प्रकार से चलेगा। अकसर इस बात की शिकायत मुख्यमंत्री महोदय किया करते हैं कि जब उनके राज्य में राज्यपाल की नियुक्ति की गई है तो उनसे परामर्श नहीं किया गया, उनकी सलाह नहीं ली गई, उनसे विचार-विमर्श नहीं किया गया। केवल उनको गृह मंत्रालय से या गृह मंत्री जी से सूचना दे दी जाती है कि फलां-फलां महानुभाव हम राज्यपाल के पद पर भेज रहे हैं। मैं समझता हूं कि मुख्य मंत्रियों का यह कहना सही है और सरकारिया कमीशन ने भी चूंकि इस संबंध में अपनी संस्तुति दे रखी है, तो सलाह तो करनी

ही चाहिए। उस सलाह को आप मानें या न मानें, यह बाद की बात है, लेकिन मुख्य मंत्री लोकप्रिय सरकार के प्रतिनिधि होते हैं इसलिए उनसे सलाह करनी चाहिए।

इन्हीं शब्दों के साथ जहां तक विधेयक का संबाल है, मैं इसका समर्थन करता हूं।

*SHRI J. S. RAJU (Tamil Nadu) : Mr. Vice-Chairman, Sir, I am surprised that the Central Government which turned a deaf ear to the genuine demands of the employees of the Postal Department recently, has come out with a Bill to give further concessions to the Governors who are already leading a luxurious life.

The Institution of Governor and Article 356 of the Constitution are against the spirit of federation that we are said to have. Such pernicious Article like Article 356 is not found in the Constitution of Canada, Switzerland, United States and Germany. Even if the U S President, Bill Clinton desires he cannot desmiss the State Governments there. So also, in many countries like Germany there is no Institution of Governor at all. That is why our late lamented leader and the founder of D.M.K. Dr. Anna asked, "why beard for a goat? and why Governor for a State?"

Sir, those days British Government appointed Governors because they did not have faith in the Provincial Governments. Though the Britishers have departed, we still cling on to the Institution of Governor created by them. I wish to refer to the view of the Congress Party on the role of Governors. In 1937, when the Government of India Act, 1935 came to force, Congress had majority in six provinces. At that time, alarmed by the vast powers of the Governors, before assuming office Congress Party extracted an assurance from the Viceroy to the effect that the Governors would not provoke a conflict with the elected Governments. But very cautiously ... (*Interruptions*)

SHRI S. K. T. RAMACHANDRAN : Sir, the issue before the House is not whether the Institution of Governor should continue or not? We are discussing a Bill that seeks to do away with the deduction from the emoluments, the pension equivalent gratuity received for previous employment. But the Hon'ble Member is going into the history which is not revelent to the Bill. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : I have heard your point. Now, I request the Hon'ble Member to confine his speech to the Bill.

SHRI J. S. RAJU : Sir, when we talk about the emoluments and other concessions, naturally we have to discuss the role for which the Governors are paid. Hon'ble Member Shri Swaminathan had already explained the necessity to discuss about the role of Governors. I don't want to debate that point again with Shri Ramachandran.

Sir, it is a pity that even after the exit of the Britishers we continue to cling to the Institutions created by them. I was referring to the incident in 1937 when the Congress Party sought and got an assuaance from the Viceroy that no Governor would provoke a conflict with six provincial Governments where Congress commanded majority. That very Congress Party is in power at the Centre now. But today the Congress is doing just the opposite. The Governors are made to function as the agents of the Centre. I am compelled to think that even this kind of concessions are given to the Governors with the hope that they would be more faithful to the Centre.

Mr. Vice-Chairman, Sir, I have a feeling that the Centre has more faith in the reports sent by Governors rather than the ones sent by CBI, RAW and Intelligence Bureau. This is the situation today.

Because of the paucity of time, I'll make only important points.

*English translation of the original speech delivered in Tamil.

Sir, I wish to quote what Sarkaria Commission had to say about the way Governors are appointed. I quote :

> "Discarded and disgruntled politicians from the party in power in the Union, who cannot be accommodated elsewhere, get appointed. Such persons, while in office, tend to function as agents of the Union Government rather than as impartial Constitutional functionaries."

The Sarkaria Commisrion Report has also been thrown into dustbin by this Government. Even Pt. Jawaharlal Nehru while speaking on the choice of Governors in the Constitutnt Assembly, said, "a figure that . . . must be acceptable to the Government of the province" should be chosen. Just as other policies of Pt. Nehru this also has been conveniently forgotten.

Sir. I must refer to another important observation of Sarkaria Commission. It says,

> ". . . . it is desirable that a politician from the ruling party at the Union is not appointed as Governor of a State which is being run by some other party or a combination of other parties."

The Centre, as usual, has put this report into cold storage.

I feel that Governor is much more powerful even than the President. Because President can be impeached by Parliament whereas, the job of a Governor is safe and secure as long as he is in the good books of the Centre. I don't want to refer to any individual Governor. But it is a fact that Governors have been interfering in the affairs of States only after 1967. the year which saw the non-Congress parties forming Government in many States. Unfortunately, we have been witness to instances wherein Governor got hospitalised just because he did not want to administer the oath of office to a non-Congress party which had won the Assembly election. After all attempts to install Congress Government failed, the Governor turned up regaining health. (*time bell rings*)

I am just concluding. Sir, there have been reports of Governors calling independent M. L. AS to Raj Bhavan to seek their support for the party in power at the Centre, failing which they were asked to sign affidavit as though they were untrustworthy.

There is another anomaly with regards to State when there is no elected Government in a State, the Governor rules the roost. Whertas, under a similar situation in the Centre, a care-taker Government continues in office. Why this double standard ? Why not to have a care-taker Government there also ? This is because the Centre dismisses a State Government only to rule that State through the Governor. Though my party is for the abolition of the Institution of Governor, we do not favour denigrating the office of Governor as long as the Institution exists. We are against humiliating Governors through any means. The Institution must go, but till then let it not be denigrated for political reasons. With these words I conclude.

SHRI G. SWAMINATHAN : Mr. Vice-Chairman, Sir, while welcoming the Bill regarding emoluments of the Governors and supporting it, I would like to say a few words on the comments made by my esteemed friend, Mr. M.A. Baby, that the Governor once appointed should not seek any other office, either the office of the Members of Parliament or any other office of the Government. Sir, we had such a provision contemplated for the Speaker that once a person becomes a speaker, he must never contest for any other office. Even though it was adumbrated in the West Minister System, it has never been strictly followed. In such a case, no person would want to become a Speaker. Likewise, if you say that the Governor should not seek any other position, perhaps many people may not want to become Governors or we may have people who are in their 70s or so as Governors who after having one stint may not opt for another term. It was also said by Sarkaria that after completion of one term as Governor, the same person should not opt for the second term. So,

we may only have very old people as Governors and not young people who may like to hold some other office.

Regarding this Bill, I whole-heartedly support it because I personally feel that good emoluments have to be given for persons doing public service and also for the People's Representatives. It is not right to ask them to work without proper emoluments being paid. Some years back, when I went to Jamaica and while I was talking about the emoluments being paid to the Members of Parliamaent. I was told that the Members of Parliament there do not get uniform payment. They are paid differentially, according to their last-drawn salaries or according to their last income-tax returns because they said that somebody who was drawing about one lakh dollars would not like to work for 10,000 dollars. So, you have better people coming in. In the earlier times, politics was a sacrifice but nowadays politics has become almost a profession. You have to devote full time for it. Rajaji used to say, "I only want people who have some other work to do to come to politics." Nowadays you cannot do that. So. I presonally feel that emoluments are to be fixed according to the post. I feel that Governors are to be paid good emoluments because I came across a case where a former Prime Minister was thrown out of his flat as he did not have enough money to pay. That was an incident which we all had heard. I think the hon. Prime Minister then said that he would provide him Government accommodation. But the ex P.M. said 'no'. He stood on his principle and said, "No. I don't want Government accommodation. I will be on my own." That was a case of an eminent person. After retirement, such people are not getting enough. I personally feel that Governors should be paid well. Even pensionary benefits should be paid well. I don't think this Rs. 11,000 is a big amount. It is not a big amount because nowadays private companies are being allowed to pay up to Rs. 50,000 per month. Governors may also have to pay income tax. After paying income tax, I don't know what will remain with them. I don't know whether their salary is subject to income tax or exempt from it. I don't think, as my friend Mr. Raju has said, that it is a high salary by which you can entice Governors, by which they should be at the mercy of the Central Government and should feel grateful for having been given by them this salary.

Here I would say one or two points. All the other points have already been said by Mr. Baby and others. Regarding qualifications of a Governor, it has been already said. The most important point is about the selection of Governors. It has been pointed out that selection of Governors is being done unilaterally by the Government of India and there is no criteria on the basis of which they are being selected. A Governor had been a bureaucrat, a Governor had been a Secretary to the Government, a Governor had been a politician who had been sincere to the Government at the Centre. What should be their qualifications, what should be their age, what kind of persons they should be whether the Centre alone should select them or a panel of people comprising the Opposition Leaders, President, Vice-President, Prime Minister. Nothing is here. I would suggest that a committee comprising all these people should select Governors. Then there will be a sort of impartiality in the selection of Governors.

It has also been about the tenure of Governors, whether they should be transferred like civil servants. You are giving them an appointment for five years. Suddenly, you feel somebody is not listening to you properly. Then you are transferring him from one State to another. Such an action lowers the dignity of the office of Governor. I am not going into the veracity of such transfers. Suppose there is a Governor who goes on doing something which is not responsible—we have heard of Governors who pilfered their own office furniture, rugs and blankets—then you have to punish them. You have to transfer them. Bht what would be in the minds of people about such transfer of Governors should be looked into.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : You have to conclude now.

SHRI G. SWAMINATHAN : Mr. Vice-Chairman, Sir, the time allotted for discussion on this Bill is one hour. I was in the Business Advisory Committee. We started the discussion at 3.00 p.m. Now it is 3.40 p.m. According to the allotted time, we have one hour for this Bill. I don't want one hour.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The total time allotted is one hour.

SHRI G. SWAMINATHAN : I will take only five minutes more. Including the Minister's reply ... (*Interruptions*) ...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : That is for the Home Minister to say.

SHRI G. SWAMINATHAN : Another thing is about the dismissal of Governors, Two or three Governors were dismissed. A Governor, Mr. Patwari of Tamil Nadu was dismissed on a flimsy ground that the President was not given non-vegetarian food. There was a big complaint and the Governor was asked to go away. He stood on his principle. That Governor was a Gandhian. I suggest that before people are appointed as Governors, we should be very careful in not appointing Gandhians because Gandhians do not have two principles. This gentleman never takes non-vegetarian food, never smokes. Suppose a President smokes or he wants non-vegetarian food which the Governor ... (*Interruptions*) ...

SHRI S.K.T. RAMACHANDRAN : But we have Chief Ministers who hold three principles : one in Delhi, one in Madras and one in *oopar*.

SHRI G. SWAMINATHAN : There was some problem between the Governor and the President and the Governor was dismissed. This kind of dismissed of high dignitaries is not good.

There are many functions of the Governor which are of a conflicting nature. These functions are generally conflicting because these are inherent. I will narrate them and conclude my speech. One such function is summoning the legislature. Summoning legislature is a prerogative of the Governor because sometimes it may happen that a Chief Minister may not have full majority in the legislature and the Chief Minister may not allow the legislature to be convened. Then the Governor has to convene the legislature. It is the discretion of the Governor. Suppose a Chief Minister has got the majority and the Governor does not convene the legislature as desired by the Chief Minister. What happens then ? Even though it is his discretionary power, it is an inherent defect and it becomes very difficult and it creates a problem because yiu have to convene the legislature when the Governor does not want to do so. So, this has to be looked into.

Then, the other thing is about extension of officers. Generally, the State Government has got the power to extend the service of officers. But, when the files go to him and the Governor does not sanction these extensions, then also there is a big problem. Whether this is also within the discretionary powers of the Governor or not, it is only for the honourable Home Minister to tell us.

There is also the question of the Governor calling for the files. It is also not known whether the Governor has got the right to call for files directly from the Secretaries to the Government. Normally, the Governor is supposed to be advised by the Chief Minister and he has to send a report to the Government of India and whatever he wants he has to get that information from the Chief Minister. It is not right that the Governor can go over the head of the Chief Minister and ask the officers to submit files to him. Whether this is right or wrong is to be explained and also whether it is to be considered within the management system.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : We are not discussing the functions of the Governor.

SHRI G. SWAMINATHAN : But, Sir, these are all the inherent defects in the system and these are all the inherent problems created by them... (*Interruptions*) ..

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The Home Minister is not bound to answer all these points. The Bills on the emoluments of the Governors only.

SHRI G. SWAMINATHAN : There are some inherent problems in the functioning and the role of the Governor which I am bringing to the notice of the Home Minister. If the Minister wants to reply, it is his own wish. But he is not going to be directed by the Chair. He is most senior. I am not also casting any aspersions on the Chair!

Regarding the security given to the Governor, tht State Government is responsible fos providing security to the Governor. Suppose a Governor wants security from the Centre. Is it right for the Centre to provide the security to him? This question has to be answered because this will shake the confidence of the peiple on the State Government. What stand should the Government of India take on this matter should also be explained.

I now come to the question of decisions with regard to Universities. The Govenor is the Chancellor of the Universities and various problems have arisen between the Governor and the State Government. It is not with the present Governor alone. When MGR was the Chief Minister, there was a big row going on between the then Governor and the Education Minister on the question of appointment of Vice-Chancellors of some Universities in the State. The Governor said, "I am the Chancellor and I have got every right to do this. How can the Education Minister and the State Government interfere in this?"

This is a problem which is creeping in many of the States. I am mentioning all these points because I feel that there should be cordial relationship between the Gvernor and the State Chief Minister. When there is no cordial relationship between the elected Chief Minister and the Governor, naturally, the image of the Government will be spoiled and there will be imbroglio and the people will lose faith in the whole set-up. Normally, during the British days, two Governments would not fight openly. Similarly, now also, the State Governor should not accuse the Central Government and the Central Government also should not accuse the State Goverment. It is because, in the minds of the people both State and Central Government are the Government and these two shuld not attack each other. Again, there should not be two views on the part of the Centre, one for the Governor and another for the Chief Minister. If this situation develops, then the credibility of the Government as a whole will come down.

These are all the matters which I wanted to mention.

I hope the Home Minister will look into all these points and see that cordial relationship prevails between these functionaries.

I fully agree with this Bill and I support it whole-heartedly. Thank you.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Yes, Mr. Khaleelur Rahman.

मोहम्मद खलीलुर रहमान (आंध्र प्रदेश) : जनाब वाइस चेयर मैन साहब, दस्तूर बनाने वालों का मंशा क्या था, किस किस्म का गवर्नर होना चाहिए, किस किस्म का उसका रोल होना चाहिए, यह एक अहम सवाल है क्योंकि हम पिछले 45 वर्षों से देख रहे हैं कि ये जो मौजूदा गवर्नर हैं, दस्तूर बनाने वालों की मंशा के मुताबिक काम कर

रहे हैं, तो मुझे इंतिहाई अफसोस के साथ कहना पड़ता है कि जब हम गवर्नर्स का रोल देखते हैं तो एक शैडी किस्म का उनका रोल नज़र आता है। हालांकि जहां तक इस ओहदे का सवाल है, यह ओहदा बड़ा नाजुक तबस्सुस रखता है। किस तरीके से काम करेंगे, तो गैर-जानिबदारी के साथ, उस तरीके से काम नहीं हो रहा है। मेरे पास टाइम कम है, इसलिए मैं ज्यादा तफसील में नहीं जाऊंगा। मैं एक दो मिसालें देकर खत्म करूंगा।

मैं पहले 1984 की मिसाल लेता हूं जब कि तेलुगु देशम गवर्नमेंट को बरतरफ किया गया। किस तरह से तेलुगु देशम गवर्नमेंट को बरतरफ किया गया। क्या गवर्नर तेलुगु देशम हुकूमत को बरतरफ करने में हक बजानिब थे ? नहीं, कतई नहीं थे। एक महीने के बाद देख लिया कि अवामी रद्दे अमल किया गया और फिर जिस गवर्नमेंट को बरतरफ किया गया उसी गवर्नमेंट को अन्टरन्ली 30 दिन में दुबारा हल्फ दिलाया गया। इससे बदतर मिसाल कोई नहीं हो सकती। इस किस्म का गवर्नर का रोल रहा है।

दूसरी मिसाल देना चाहता हूं। 6 साल के बाद 1991 ईस्वी में डी.एम.के. की गवर्नमेंट मंतखिबा हुकूमत थी, इलेक्टिड गवर्नमेंट थी तो क्या वजह थी कि उस गवर्नमेंट को बरतरफ किया गया ? ऐसी मिसालें हैं। जब हम गवर्नर के रोल पर नज़र दौड़ाते हैं तो हमें इंतिहाई अफसोस के साथ यह कहना पड़ता है कि गवर्नर्स सिर्फ मरकज के एजेंट की हैसियत से काम करते हैं, मरकज की खुशनुदी के लिहाज से काम करते हैं। वह यह नहीं देखते हैं कि दस्तूर का हम हल्फ ले रहे हैं हमें इंतिहाई गैर जानिबदार होना चाहिए। हमें सही मानों में जो इख्तियारात हमारे जिम्मे हैं, जो अख्तियारात हमको दे रखे हैं उस अख्तियारात को सामने रखते हुए हम को काम करना चाहिए। वह यह नहीं देख रहे हैं।

हमारी पार्टी का जहां तक सवाल है, इन तमाम हालात को देखने के बाद हमारी पार्टी की जो पालिसी है वह यह है कि गवर्नर के ओहदे को बरखास्त कर दिया जाए क्योंकि गवर्नर्स का इस किस्म का रवैया रहा है। दूसरी बात यह है कि जो इस किस्म का जानिबदाराना रवैया रहा है इससे सरकारी खजाने पर बोझ है। गवर्नर की तनख्वाह, गवर्नर का ओहदा सरकारी खजाने पर बोझ है। लिहाज़ा जहां तक हमारी पार्टी का सवाल है मैं समझता हूं क्योंकि गवर्नर्स की तनख्वाहों में दिन प्रतिदिन इजाफा होता जा रहा है और यह सरकार खजाने पर बोझ है इसलिए हमारी पार्टी गवर्नर के ओहदे को बरखास्त करने के फेवर में है।

श्री मुहम्मद खलीलुर्रहमान : आंदरा प्रदेश"[†]: जनाब वाईस चेयरमैन साहब, दस्तूर बनाने वालों का मंशा क्या था, किस किस्म का गवर्नर होना चाहिये, किस किस्म का उसका रोल होना चाहिये, यह एक अहम सवाल है क्योंकि हम पिछले 45 बरसों से यह देख रहे हैं कि जो मौजूदा गवर्नर हैं, दस्तूर बनाने वालों के मंशा के मुताबिक काम कर रहे हैं। तो मुझे इंतिहाई अफसोस के साथ कहना पड़ता है कि जब हम गवर्नर का रोल देखते हैं तो एक शैडी किस्म का उनका रोल नज़र आता है, हालांकि जहां तक इस ओहदे का सवाल है, यह ओहदा बड़ा नाजुक तबस्सुस रखता है, किस तरीके से काम करेंगे, तो गैर-जानिबदारी के साथ, उस तरीके से काम हो रहा है या नहीं हो रहा है।

[†] Transliteration in Arabic Script.

ہمیں انتہائی ذمہ دار ہونا چاہیئے۔ ہمیں صحیح معنوں میں جو دستوری فرائض ہمارے کاندھے ہیں۔ جو اختیارات ہم کو دے رکھے ہیں اُن اختیارات کو سامنے رکھتے ہوئے ہم کو کام کرنا چاہیئے۔ وہ یہ سہولیں دیکھ رہے ہیں۔ ہماری پارٹی کا جہاں تک سوال ہے ان تمام حالات کو دیکھتے ہوئے ہماری پارٹی کی جو پالیسی ہے وہ یہ ہے کہ گورنر کے عہدہ کو برخواست کر دینے کو تاکہ گورنرس کا اس قسم کا رول یہ رہا ہے۔ دوسری بات یہ ہے کہ جو اس قسم کا ذمہ دار ادارہ ہے اس سے سرکاری خزانہ پر بوجھ ہے۔ گورنر کی تنخواہ گورنر کا عہدہ سرکاری خزانہ پر بوجھ ہے۔ لہٰذا جہاں تک ہماری پارٹی کا سوال ہے۔ میں سمجھتا ہوں کہ گورنرس کی تنخواہوں میں دن بدن اضافہ ہوتا جا رہا ہے اور یہ سرکاری خزانہ پر بوجھ ہے اس لئے ہماری پارٹی گورنر کے عہدہ کو برخواست کرنے کے حق میں ہے۔

SHRI S.B. CHAVAN : Sir, all the hon. Members who have spoken have supported the Bill. And I must express my gratitude for the support that the hon. Members have given to the Bill. But, Sir, while speaking, a number of hon. Members have in fact, cited instances. Might be, there were instances where the people had a feeling that the Governor should have acted in a particular manner, and that according to their wishes, he had not

پاس ٹائم کم ہے۔ اس لیے میں زیادہ تفصیل میں نہیں جاؤں گا۔ میں ایک دو مثالیں دیکر ختم کروں گا۔

میں پہلے ۱۹۸۴ء کی مثال دینا چاہتا ہوں جبکہ تیلگو دیشم گورنمنٹ کو برطرف کیا گیا۔ کس طرح سے تیلگو دیشم گورنمنٹ کو برطرف کیا گیا۔ کیا گورنر تیلگو دیشم حکومت کو برطرف کرنے میں حق بجانب تھے۔ نہیں قطعی نہیں تھے۔ ایک مہینہ کے بعد دیکھ لیا کہ عوامی ردِ عمل نے کیا کیا۔ اور پھر جس گورنمنٹ کو برطرف کیا گیا اسی گورنمنٹ کو اندرون ۳۰ دن میں دوبارہ حلف دلایا گیا۔ اس سے بہتر مثال کوئی نہیں ہو سکتی۔ اس قسم کا گورنر کا رول رہا ہے۔

دوسری مثال دینا چاہتا ہوں ۶ سال کے بعد ۱۹۹۱ عیسوی میں ڈی۔ ایم۔ کے کی گورنمنٹ منتخبہ حکومت تھی۔ الیکٹڈ گورنمنٹ تھی تو کیا وجہ تھی کہ اس گورنمنٹ کو برطرف کیا گیا۔ ایسی مثالیں ہیں۔ جب ہم گورنر کے رول پر نظر دوڑاتے ہیں تو ہمیں افسوس کے ساتھ یہ کہنا پڑتا ہے کہ گورنرس صرف مرکز کے ایجنٹ کی حیثیت سے کام کرتے ہیں۔ مرکز کی خوشنودی کے لئے کام کرتے ہیں۔ وہ یہ دیکھتے نہیں کہ دستور کا ہم حلف لے رہے ہیں

acted. And that is why there seems to be some kind of a grievance. Sir, I can well understand that in a federal structure every institution which has been created under the Constitution by or forefathers was with a purpose. And so long as every institution and the office-bearers of that institution are within the limits prescribed for them, there should not be any scope for any kind of conflict between one institution and the other. It is not merely between one institution and the other institution that there has been some kind of a conflict. If the Centre happens to be of a party and the State Government happens to be of a different party, the Constitution-makers definitely visualised such a kind of situation, but at the same time expected that everybody will try to behave in such a manner that there should be no scope for any kind of conflict between the Centre and the States. But I cannot rule out the possibility of some of the State Governments also behaving in a manner which is not really very congenial for the democratic set-up. In a democratic set-up, the Governor is being appointed, and for a very useful purpose. Whatever be the views of hon. Members. I am aware of the views expressed by the Sarkaria Commission and the recommendations made by them. I happen to be the Chairman of the Sub-Committee of the Inter-State Council wherein the recommendations of the Sarkaria Commission are being considered. This is one of the issues on which the Sarkaria Commission has given very useful suggestions. I do not think this is the time, this is the opportune time, for replying to the different points which hon. Members have made. First of all, the issue is so delicate. Even if I were to make an oblique reference to any of the things, it would be interpreted as if I had said something against this particular Governor or that Governor which I do not propose to do.

Every Governor, I am sure, is not supposed to transgress the limits of constitutional propriety as far as possible. The limits have been laid down by the Constitution. Governors should not indulge in any kind of politics. However, there have been occasions where even according to the provisions of the Constitution, we have empowered the Governor to act in a particular manner; where he happens to be the Chancellor of a university, he has to act in a particular manner which may or may not be to the liking of the ruling party. Any unnecessary kind of conflict which is being created between the State Government and the Governor needs to be, in fact, avoided.

My advice to all the Chief Ministers and Governors would be that should try to create a congenial atmosphere. Ultimately, everything even the last word, cannot be said in the Constitution. You have to build up certain conventions. You have to see that an institution functions in a proper manner. If you try to find out, if you just try to find out, where he is superior or you are superior, there is no provision for the same in the Constitution. Everybody is important. Everybody has a particular role to play. If you confine yourself to that limit, I do not think there is any scope for any kind of conflict. I do not think I should say anything more. I would request hon. Members to kindly pass this Bill.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Now, the question is :

"That the Bill further to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : We shall now take up clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill

SHRI S. B. CHAVAN : Sir, I beg to move :

"That the Bill be passed."

The question was put and the motion was adopted.